

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

LEWIS JACKSON, )  
                    )  
Plaintiff         )  
                    )  
v.                 )         No. 3:12-0771  
                    )         Chief Judge Sharp/Bryant  
OFFICER GILLIAN, et al., )         **Jury Demand**  
                    )  
Defendants         )

**TO: THE HONORABLE KEVIN H. SHARP**

**REPORT AND RECOMMENDATION**

On March 24, 2015, the undersigned Magistrate Judge issued an order to show cause (Docket Entry 12) directing Plaintiff Jackson to show cause on or before April 10, 2015, why this case should not be dismissed for Plaintiff's failure to obtain service of process on the remaining Defendant, Officer f/n/u Gillian. As explained in the order to show cause, the record fails to indicate that service of process according to the rules has been obtained against this Defendant. The order to show cause further admonished Plaintiff that his failure to respond may cause the undersigned Magistrate Judge to recommend dismissal of the complaint.

Despite this admonition, Plaintiff Jackson has not responded to the order to show cause.

Rule 4(m) of the Federal Rules of Civil Procedure provides that if a defendant is not served with 120 days after the complaint is filed, the Court must dismiss the action without

prejudice against that defendant or order that service be made within a specified time. Plaintiff Jackson has neither requested additional time nor has he made any other response to the order to show cause.

For the reasons stated above, the undersigned Magistrate Judge finds that the complaint against Defendant Gillian should be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

#### **RECOMMENDATION**

For the reasons explained above, the undersigned Magistrate Judge recommends that the complaint be dismissed against the remaining Defendant, Officer Gillian, without prejudice for Plaintiff's failure to obtain service of process, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has **14 days** from receipt of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have **14 days** from receipt of any objections filed in this Report in which to file any responses to said objections. Failure to file specific objections within **14 days** of receipt of this Report and Recommendation can constitute a waiver of further

appeal of this Recommendation. *Thomas v. Arn*, 474 U.S. 140 106 S. Ct. 466, 88 L.Ed.2d 435 (1985), *Reh'g denied*, 474 U.S. 1111 (1986).

**ENTER** this 17<sup>th</sup> day of April, 2015.

/s/ John S. Bryant  
JOHN S. BRYANT  
United States Magistrate Judge